



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 8 2009

Jason Torchinsky
Holtzman Vogel PLLC
98 Alexandria Pike
Suite 53
Warrenton, Virginia 20186

RE: MUR 6101
Heller for Congress and
Elisabeth Ballinger, in her official capacity
as Treasurer

Dear Mr. Torchinsky:

On October 28, 2008, the Federal Election Commission notified your clients, Heller for Congress and Chrissie Hastie, in her official capacity as Treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 21, 2009, found that there is reason to believe Heller for Congress and Elisabeth Ballinger, in her official capacity as Treasurer, violated 2 U.S.C. §§ 441a(f) and 441b(a), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

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Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.


Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Joshua Smith, the attorney assigned to this matter, at (202) 694-1624.

Sincerely,



Matthew S. Petersen
Vice Chairman

Enclosures
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Heller for Congress and
Elisabeth Ballinger, in her official capacity as treasurer

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I. INTRODUCTION

This matter arises out of a complaint alleging that November Inc., Autumn Productions, Foundations Inc. (n/k/a In Compliance Inc.) ("Foundations"), and NI Operations made prohibited corporate contributions to Heller for Congress and Elisabeth Ballinger, in her official capacity as treasurer ("the Committee"), by extending credit to the Committee that remained outstanding for long periods of time. In response to the complaint, the Committee asserts that no impermissible contributions occurred because there was no extension of credit. Based on available information indicating that the Committee owed in excess of \$250,000 to these vendors for over two years, the Commission finds reason to believe that Heller for Congress and Elisabeth Ballinger, in her official capacity as treasurer, violated 2 U.S.C. §§ 441a(f) and/or 441b(a) by receiving excessive or prohibited corporate contributions.

II. FACTUAL BACKGROUND

The complaint in this matter raises questions about the Committee's debts owed to four vendors.¹ The complainant asserts that November Inc., Autumn Productions, Foundations, and NI Operations provided goods or services to the Committee, and that the Committee failed to repay these entities. Complainant argues that these companies extended credit to the Committee outside the normal course of business because the Committee has "regularly and promptly paid for [other] services rendered" during both the 2006 and 2008 campaign cycles, and because it is not the "usual or normal practice" for political consulting companies to allow debts to go unpaid

¹ The Committee is the principal campaign committee for Dean Heller, who was elected to the U.S. House of Representatives for Nevada's Second Congressional District in 2006 and was reelected in 2008.

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1 for two years. Complaint at 2. The Complainant states that the credit extended to the Committee
2 is not substantially similar to the credit extended to nonpolitical clients, because regional
3 consulting firms do not "lend sums in excess of \$250,000 interest free for periods of over a year
4 to non-political clients." *Id.* Finally, the Complainant alleges that November Inc., Autumn
5 Productions, Foundations, and NI Operations are related entities, because Autumn Productions,
6 Foundations, and NI Operations are listed under the same address on the Committee's FEC
7 reports, and because another Nevada committee lists Autumn Productions at the same address as
8 November Inc. on its FEC reports. *Id.* at 1.

9 In response, the Committee asserts that it "was billed in accordance with the usual and
10 normal billing practice for all of their vendors." Committee Response at 2. The Committee
11 asserts that it is not out of the ordinary for "political consultants to bill their clients for services
12 after they are rendered, once actual costs are known," and "it is also not unusual for a candidate
13 committee to take some time to address debt to vendors." *Id.* Further, the Committee argues that
14 its reported debts are not extensions of credit because they "are not the result of any agreement
15 between the committee and their creditors with respect to the payment of invoices." *Id.*; see
16 11 C.F.R. § 116.1(e). Finally, the Committee states that it "has not made any attempt to settle
17 the debts for less than owed," and it made payments to November Inc. and NI Operations in late
18 October and early November 2008. Committee Response at 3.

19 **III. LEGAL ANALYSIS**

20 The issue presented in this case is whether the Committee knowingly accepted excessive
21 and prohibited contributions in the form of extensions of credit that have remained outstanding
22 for more than two years. The Federal Election Act of 1971, as amended ("the Act"), prohibits
23 contributions to a candidate or an authorized committee in excess of \$2,300 in connection with

1 Federal elections, and it prohibits corporations (including commercial vendors) from making
2 contributions or expenditures in connection with any election for Federal office. *See* 2 U.S.C.
3 §§ 441a(a)(1) and 441b(a); 11 C.F.R. § 114.2. Similarly, the Act prohibits committees from
4 knowingly accepting excessive or prohibited contributions. *See* 2 U.S.C. §§ 441a(a)(1) and
5 441(b). A "contribution" is defined as "any gift, subscription, loan, advance, or deposit of
6 money or anything of value made by any person for the purpose of influencing any election."
7 2 U.S.C. § 431(8)(A)(i). A "commercial vendor" is any person who provides goods or services
8 to a candidate or political committee, and whose usual and normal business involves the sale,
9 rental, lease, or provision of those goods or services. *See* 11 C.F.R. § 116.1(c).

10 The extension of credit to a candidate's authorized political committee by a commercial
11 vendor is considered a contribution unless the credit is extended in the ordinary course of the
12 person's business, and the terms are substantially similar to extensions of credit to nonpolitical
13 debtors of similar risk and size of obligation. *See* 11 C.F.R. § 100.55; 11 C.F.R. § 116.3(b). An
14 extension of credit includes, but is not limited to: (1) any agreement between the creditor and
15 political committee that full payment is not due until after the creditor provides goods or services
16 to the political committee; (2) any agreement between the creditor and political committee that
17 the political committee will have additional time to pay the creditor beyond the previously
18 agreed-to due date; and (3) the failure of the political committee to make full payment to the
19 creditor by a previously agreed-to due date. *See* 11 C.F.R. § 116.1(e). In assessing whether a
20 commercial vendor extended credit in the ordinary course of business, and thus did not make a
21 contribution, the Commission will consider: (1) whether the commercial vendor followed its
22 established procedures and its past practice in approving the extension of credit; (2) whether the
23 commercial vendor received prompt payment in full if it previously extended credit to the same

1 candidate or political committee; and (3) whether the extension of credit conformed to the usual
2 and normal practice in the commercial vendor's trade. *See* 11 C.F.R. § 116.3(c). A contribution
3 also will result if a creditor fails to make a commercially reasonable attempt to collect the debt.
4 *See* 11 C.F.R. § 100.55.

5 As discussed below, it appears that the Committee may have accepted prohibited
6 corporate contributions from November Inc. and Foundations, and excessive or prohibited
7 contributions from Autumn Productions and NI Operations, because these companies extended
8 credit to the Committee and failed to make a commercially reasonable attempt to collect the
9 debts owed by the Committee.

10 **A. November Inc.**

11 As a registered corporation in the State of Nevada specializing in "fundraising,
12 government affairs, media, campaign, and project management," November Inc. appears to be a
13 commercial vendor under the Commission's regulations. *See* 11 C.F.R. § 116.1(c); *see also*
14 November Inc. Home, at <http://www.novemberinc.com> (last visited Mar. 30, 2009) (stating that
15 November Inc.'s mission is "Building winning campaigns and successful relationships with
16 business and political leaders across the country"). A Dun and Bradstreet research service report
17 for the company states that November Inc. is a "political campaign organization" with annual
18 sales of \$100,000. The Committee lists its debt to November Inc. as "consulting and fundraising
19 services." *See* Schedule D, 2008 Post-General Report.

20 It appears that November Inc. extended credit to the Committee because it did not require
21 full payment until after it rendered services to the Committee. *See* 11 C.F.R. § 116.1(e)(1). For
22 at least two years, a significant portion of the Committee's debt to November Inc. has remained
23 outstanding. From mid-2006 until the present, the Committee has owed November Inc. at least

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1 \$71,706.50. This amount increased to \$92,390 before the 2006 general election, and again to
2 \$117,862.65 in the Committee's 2006 Post-General Report filing. The amount then fell by
3 \$1,106.50 in the beginning of 2007 to \$116,757.60. However, this amount remained constant
4 from early 2007 until soon after the instant complaint was filed, when the Committee made two
5 disbursements of \$4,200 each on October 31, 2008 and November 4, 2008, bringing the total
6 owed to November Inc. to \$108,356.60 as of December 31, 2008. Despite the amount of money
7 that remained outstanding for the company's consulting services, the Committee has made
8 disbursements to November Inc. for minor expenses. *See, e.g.*, 2008 October Quarterly Report
9 (Committee disbursed \$3,122.97 to November Inc. for "copier rentals").

10 Based on the available information, November Inc. did not extend credit to the
11 Committee in the ordinary course of business and on substantially similar terms as those of
12 nonpolitical clients of similar risk and size of obligation. *See* 11 C.F.R. § 100.55; 11 C.F.R.
13 § 116.3(b). We have no information that November Inc. followed its established procedures and
14 past practice, whether it previously extended credit to the Committee and received prompt
15 payment in full, or whether the extension of credit conformed to the usual and normal practice in
16 its trade or industry. *See* 11 C.F.R. § 116.3(c). Likewise, we have no information regarding
17 November Inc.'s collection policies and practices, advance payment policies, or billing cycles for
18 nonpolitical debtors, and we lack information regarding the terms of the transaction in this case.
19 *See id.* However, we question whether a corporation with an estimated \$100,000 in annual sales
20 could extend credit in excess of \$100,000 for more than two years in the ordinary course of
21 business.

22 The Committee has still not paid November Inc. in full. Although the Committee states
23 in its response that it has paid \$8,400 toward the total debt owed to the vendor, \$108,356.60

1 remains outstanding. Moreover, the debt owed by the Committee has been continuously
2 outstanding for at least two years.

3 **B. Foundations, Inc. (n/k/a In Compliance Inc.)**

4 Foundations, which changed its name to In Compliance Inc. in 2007, is a registered
5 corporation in Nevada and appears to be a commercial vendor under the Commission's
6 regulations. See 11 C.F.R. § 116.1(c). The company's Dun and Bradstreet report states that
7 Foundations provides "business services" with annual sales of \$160,000, and it appears to
8 provide consulting services to Nevada campaigns.² The debt owed by the Committee to
9 Foundations is listed as consulting, treasury, and software support services, as well as printing
10 and postage expenses. See Schedule D, 2007 April Quarterly Report.

11 It appears that Foundations extended credit to the Committee because it did not require
12 full payment until after it rendered services to the Committee. See 11 C.F.R. § 116.1(e)(1). For
13 at least two years, the Committee has owed Foundations \$19,500. In its 2006 October Quarterly,
14 the Committee reported a debt of \$13,048.27 to Foundations, and this debt increased to
15 \$29,131.61 in the Committee's 2006 Post-General Report. This amount fell to \$19,500 in the
16 Committee's 2007 October Quarterly Report, and has remained unchanged.

17 Based on the available information, Foundations did not extend credit to the Committee
18 in the ordinary course of business and on substantially similar terms as those of nonpolitical
19 clients of similar risk and size of obligation. See 11 C.F.R. § 100.55; 11 C.F.R. § 116.3(b).
20 Although the Committee's response states that Chrissie Hastie, its former treasurer, was the
21 owner and operator of Foundations and asserts that Hastie "has treated the Committee as she has

² See, e.g., Henderson City Council Campaign Contribution and Expenses Report, at http://www.cityofhenderson.com/city_clerk/municipal_elections/Historical_Info/pdf/2007/CCE%201/03-27-2007_CCE_THOMAS_WAGNER.pdf (Mar. 27, 2007).

1 all of her other clients" and has allowed it to address debt over time "as part of the normal and
2 usual business practice of Foundation, Inc.," it does not provide examples of the company's
3 normal and usual business practices or offer information to support this contention. See
4 Committee Response at 2. Nor does it state whether Foundations followed its established
5 procedures and past practice, whether it previously extended credit to the Committee and
6 received prompt payment in full, or whether the extension of credit conformed to the usual and
7 normal practice in its trade or industry. See 11 C.F.R. § 116.3(c). Likewise, we have no
8 information regarding its collection policies and practices, advance payment policies, or billing
9 cycles for nonpolitical debtors, and we lack information regarding the terms of the transaction in
10 this case. Moreover, as with the other vendors used by the Committee, we question whether a
11 corporation with an estimated \$160,000 in annual sales could extend almost \$20,000 in credit for
12 more than two years in the ordinary course of business.

13 The Committee has still not paid Foundations in full, and its debt has been continuously
14 outstanding for at least two years. Although the Committee made disbursements to In
15 Compliance Inc. after Foundations changed its name in 2007, see, e.g., 2008 October Quarterly
16 Report (Committee disbursed \$3,870 to In Compliance Inc. for "consulting and treasury"
17 services), it appears that it made those payments in connection with new services provided to the
18 Committee because the original debt owed to Foundations has remained unchanged since 2007.
19 See Schedule B, 2008 Year-End Report.

20 **C. Autumn Productions**

21 As a company that "offers photography and graphic design services, with video for
22 international and domestic network and cable TV systems," Autumn Productions appears to be a

1 commercial vendor under the Commission's regulations.³ 11 C.F.R. § 116.1(c). The Committee
2 lists its debt to Autumn Productions as consulting and management services. *See* Schedule D,
3 2008 Post-General Report. Because the company is not currently registered as a corporation or
4 other business entity in Nevada, it is unclear at this time whether Autumn Productions would be
5 treated as a partnership or corporation for purposes of the Act. If treated as a partnership, it is
6 possible that the Committee accepted an excessive contribution from Autumn Productions in
7 violation of 2 U.S.C. § 441a(a)(1). However, if Autumn Productions is a corporation, the
8 Committee would have accepted a prohibited contribution in violation of 2 U.S.C. § 441b(a).

9 It appears that Autumn Productions extended credit to the Committee because it did not
10 require full payment until after it rendered services to the Committee. *See* 11 C.F.R.
11 § 116.1(e)(1). The Committee has been in debt to Autumn Productions from mid-2006 until the
12 present, with an average balance of \$131,823. The Committee initially listed debt to Autumn
13 Productions in the amount of \$66,000 in its 2006 October Quarterly Report. The Committee's
14 debt then increased to \$76,000 the next reporting period, and to \$146,000 the following reporting
15 period. This amount remained outstanding at least 390 days, until the Committee paid down the
16 debt to \$137,050 sometime between January 1, 2008 and March 31, 2008. The Committee's
17 debt to Autumn Productions has remained at \$137,050.

18 We have no information regarding Autumn Productions' established procedures and past
19 practice, whether it previously extended credit to the Committee and received prompt payment in
20 full, or whether the extension of credit conformed to the usual and normal practice in its trade or
21 industry. *See* 11 C.F.R. § 116.3(c). Likewise, we have no information regarding Autumn

³ *See* Desert Beacon, <http://desertbeacon.blogspot.com/2008/05/rep-hellers-intriguing-campaign-debts.html> (May 07, 2008, 23:06 EST).

1 Productions' collection policies and practices, advance payment policies, or billing cycles for
2 nonpolitical debtors, and we lack information regarding the terms of the transaction in this case.
3 As with November Inc., however, it is questionable whether a small, apparently unregistered
4 vendor could extend credit in excess of \$100,000 for more than two years in the ordinary course
5 of business. Also, the Committee has still not paid Autumn Productions in full, and this debt
6 owed by the Committee has been continuously outstanding for at least two years.

7 **D. NI Operations**

8 As a rental company that provides services to political candidates,⁴ it appears that
9 NI Operations is a commercial vendor under the Commission's regulations. See 11 C.F.R.
10 § 116.1(c). Similar to Autumn Productions, however, NI Operations is not currently registered
11 as a corporation or other business entity in Nevada, and it is unclear whether NI Operations
12 would be treated as a partnership or corporation for purposes of the Act. If treated as a
13 corporation, NI Operations would have made a prohibited contribution in violation of 2 U.S.C.
14 § 441b(a). As a partnership, however, NI Operations would not have made an excessive
15 contribution to the Committee in violation of 2 U.S.C. § 441a(a)(1), because the maximum
16 amount of credit NI Operations extended to the Committee was \$1,200.

17 It appears that NI Operations extended credit to the Committee because it did not require
18 full payment until after it rendered services to the Committee. See 11 C.F.R. § 116.1(e)(1); see
19 also Attachment A. According to reports filed with the Commission, it appears the most the
20 Committee owed NI Operations at any point in time was \$1,200. See Attachment A. The
21 Committee owed NI Operations \$600 for rent for more than a year and a half, from late 2006

⁴ See Schedule D, 2008 Pre-General Election Report (Committee lists its debt to NI Operations as "rent"); see also 2007-2008 Expenditures by Congressman Jon Porter, <http://opensecrets.org/politicians/expendetail.php?cid=N00012560&cycle=2008&name=NI%20Operations> (listing \$750 in disbursements for rent).

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1 until October 31, 2008. *Id.* On that date, the Committee paid NI Operations \$500, and the
2 Committee thereafter extinguished its debt to NI Operations on November 24, 2008, when it paid
3 the company \$100. *Id.*

4 Based on the available information, NI Operations may not have extended credit to the
5 Committee in the ordinary course of business and on substantially similar terms as those of
6 nonpolitical clients of similar risk and size of obligation. *See* 11 C.F.R. § 100.55; 11 C.F.R.
7 § 116.3(b). NI Operations did not respond to the complaint or provide information
8 demonstrating that it followed its established procedures and past practice, that it previously
9 extended credit to the Committee and received prompt payment in full, or that the extension of
10 credit conformed to the usual and normal practice in its trade or industry. *See* 11 C.F.R.

11 § 116.3(c). As a result, we have no information regarding its collection policies and practices,
12 advance payment policies, or billing cycles for nonpolitical debtors, and we lack information
13 regarding the terms of the transaction in this case. Moreover, the debt owed by the Committee
14 was outstanding for at a year and a half, and we have no information to show that NI Operations
15 has acted in a commercially reasonable manner in attempting to collect it.

16 Nevertheless, as noted above, it is unclear whether NI Operations is a corporation,
17 partnership, or other business entity. The company is not registered as a corporation, LLP, or
18 LLC in Nevada, and a Westlaw search did not reveal registration in any other state. Thus, it is
19 unlikely that NI Operations is subject to the prohibition on corporate contributions. If NI
20 Operations is a partnership, its extension of credit would not be an excessive contribution unless
21 the partners' portion of the \$1,200, together with any individual contributions, exceeded the
22 Act's limits. *See* 11 C.F.R. § 110.1(e). However, we have no information that any individual
23 associated with NI Operations made excessive contributions to the Committee in this matter.

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As discussed above, extensions of credit by a commercial vendor to a candidate's committee are contributions to that committee if the commercial vendor did not extend credit in the ordinary course of business with terms that are substantially similar to extensions of credit to nonpolitical debtors of similar risk and size of obligation. The Committee argues that the debts owed to November Inc., Autumn Productions, Foundations, and NI Operations are not extensions of credit because the debts owed are not the result of any agreement between the Committee and its creditors "with respect to the payment of invoices." See Committee Response at 2. However, the Commission's regulations do not limit extensions of credit to agreements pertaining to invoices or to written agreement between parties. See 11 C.F.R. § 116.1(e). The Commission's regulations only require an agreement between the parties that full payment is not due until after the goods or services are provided. 11 C.F.R. § 116.1(e)(1); see also Explanation and Justification of Regulations on Debts Owed by Candidates and Political Committees, 55 Fed. Reg. 26,378 (Oct. 3, 1990) (an extension of credit occurs where a creditor decides in advance to provide goods or services on credit or decides on or after the due date to allow more time for payment). Here, the Committee has continued to report debt to the aforementioned companies, despite having received goods or services from these vendors several years ago. Therefore, as discussed above, November Inc., Autumn Productions, Foundations, and NI Operations did in fact provide extensions of credit to the Committee.

Also, as discussed above, it appears that these vendors did not extend credit to the Committee in the ordinary course of business. See 11 C.F.R. § 100.55. The Committee's debts owed to the vendors remained outstanding for more than two years, and there is no information to show that the companies attempted to recover the debts in a commercially reasonable manner.

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1 *Id.* In response to the Complaint, the Committee asserts that these vendors billed it in the
2 ordinary course of business, but it did not produce any information to support this claim. The
3 Commission previously has found reason to believe that respondents violated the Act where a
4 respondent asserts that credit was extended in the ordinary course of business but does not
5 provide any information to substantiate its assertion. *See, e.g.*, MUR 4803 (Tierney for
6 Congress), John Tierney for Congress Committee and Tierney for Congress Factual and Legal
7 Analysis.

8 The Committee also responded by stating that it is paying current invoices and making
9 payments toward past due invoices; it is working with the businesses identified in the complaint
10 to resolve debt, and has paid \$8,400 toward the total debt owed to November Inc. and \$600 to NI
11 Operations; and it is taking steps to address its cash management situation by seeking new
12 contributions and redesignation of previous contributions toward debt retirement. Committee
13 Response at 2. However, the Committee provided no information about repayment arrangements
14 with the identified vendors or the vendors' attempts to collect the money owed, beyond
15 conclusory statements that allowing these types of delays in payment (and payment of new
16 invoices first, in the case of Foundations) is normal business practice. In fact, the Committee
17 asserts that there has been no agreement with the vendors.

18 The Committee further asserts that it is not unusual for candidate committees to take
19 some time to address debt to vendors, referencing the reported debts owed by Hillary Clinton for
20 President in 2008 and Friends of John Glenn in 2005. The debts reported by these committees,
21 however, are inapposite to this matter. Although Hillary Clinton for President reported a debt of
22 \$25 million in its July 2008 Monthly Report, it has since made monthly payments on its
23 obligations and has consistently paid down this debt, reporting \$5.9 million in debts and

1 obligations on its 2008 Year End Report. Likewise, Friends of John Glenn and former Senator
2 John Glenn made significant efforts to extinguish approximately \$2.6 million in outstanding
3 debts to banks and vendors from his failed 1984 Presidential run.⁵

4 Conversely, the Committee in this matter has not made the same attempts to pay down its
5 debts to November Inc., Autumn Productions, Foundations, and NI Operations. While the
6 Committee made disbursements to November Inc. and NI Operations in October and November
7 2008, this came only after a complaint was filed, and previously the Committee had infrequently
8 disbursed funds to the respondents. For more than a year the Committee reported cash on hand
9 totals that were significantly greater than the amount of debt owed to November Inc., Autumn
10 Productions, Foundations, and NI Operations. See 2008 Pre-Primary Report (Committee
11 reported \$1,006,659.05 cash on hand, while owing a combined total of \$273,906.60 to
12 November Inc., Autumn Productions, Foundations, and NI Operations). In addition, the
13 Committee has consistently paid off its debts to other vendors.⁶ For instance, the Committee

⁵ The majority of the money owed consisted of unsecured loans made by four banks. See Katherine Rizzo, *When He Returns, Glenn Still Faces \$3 Million Campaign Debt*, ASSOC. PRESS, Nov. 6, 1998; see also *John Glenn's Failed Presidential Campaign Still Owes Millions*, ASSOC. PRESS, Feb. 9, 2004. In 1987, the Commission allowed Glenn to transfer \$800,000 in excess funds from his 1986 Senate Committee to Friends of John Glenn to reduce the debt. See AO 1987-4. In 1993, the Commission determined that Glenn could use his personal funds to pay down the debt, and Glenn subsequently used \$450,000 to pay back several individuals and businesses. See AO 1993-19. In 1997, the Commission denied a request by Friends of John Glenn to pay back the original \$2 million in loans and waive the \$1.2 million interest that had accrued. Subsequently, in 1998, the committee made another payment of \$500,000 to decrease the debt. Friends of John Glenn was administratively terminated by the FEC in 2005 soon after it filed its 2005 Year End Report, in part because the vendors and banks who were owed debts by the committee were barred from attempting to collect the debts because of the expiration of the statute of limitations, and the committee had not made disbursements or received contributions and had \$50.34 on hand. See *John Glenn's Failed Presidential Campaign Still Owes Millions*, *supra*.

⁶ The Committee also appears to have had longstanding debts to two other entities. While the Complaint names November Inc., Autumn, Foundations, and NI Operations as entities who have been owed debts by the Committee for long periods of time, two other entities, Weeks & Company and R & R Partners, are owed debts that remained outstanding. See Schedule D FEC Filings. The Committee first reported a debt to Weeks and Company in its 2006 Pre-General Election Report for \$25,000, and in its 2008 Year End Report the Committee reported a debt to Weeks and Company in the amount of \$27,000. The Committee first reported a debt to R & R Partners in its 2006 Pre-Primary Report in the amount of \$7,896.55, and reported a debt to R & R Partners on its 2008 Year-End Report in the amount of \$7,333.99.

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1 reported a debt of \$20,931.70 to Kummer Kaempfer Bonner, a law firm, in its April 2007

2 Quarterly Report. The Committee then paid down this debt by \$3,000 each quarter, until the

3 Committee reported a debt of \$0.00 to the law firm on its 2008 Year End Report.

4 Therefore, the Commission finds reason to believe that Heller for Congress and Elisabeth
5 Ballinger, in her official capacity as treasurer, violated 2 U.S.C. § 441b(a) by knowingly
6 receiving prohibited corporate contributions from November Inc., Autumn Productions, and
7 Foundations, and violated 2 U.S.C. §§ 441a(f) or 441b(a) by knowingly accepting excessive or
8 prohibited contributions from Autumn Productions. As discussed above, NI Operations does not
9 appear to have made an excessive or prohibited contribution, and therefore the Committee did
10 not knowingly receive an excessive or prohibited contribution from NI Operations.